

LARRY W. GABRIEL, State Bar No. 68329  
*lgabrielaw@outlook.com*  
JENKINS MULLIGAN & GABRIEL LLP  
585 Lorna Lane  
Los Angeles, CA 90049  
Telephone: (818) 943-8992

Special Litigation Counsel for Plaintiff  
Elissa D. Miller, Chapter 7 Trustee

EVAN C. BORGES, State Bar No. 128706  
*EBorges@GGTrialLaw.com*  
GREENBERG GROSS LLP  
650 Town Center Drive, Suite 1700  
Costa Mesa, California 92626  
Telephone: (949) 383-2800  
Facsimile: (949) 383-2801

10 Attorneys for Defendants Erika Girardi, EJ Global, LLC, and Pretty Mess, Inc.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

15 In re Girardi Keese,  
16 Debtor

Case No. 2:25-cv-01038-AH

## **JOINT STATUS CONFERENCE AND RULE 26(f) REPORT**

17 ELISSA D. MILLER, Chapter 7  
18 Trustee,

Date: June 4, 2025  
Time: 1:00 p.m.  
Place: First Street Courthouse  
350 W. 1<sup>st</sup> Street  
Courtroom 7D, 7<sup>th</sup> Floor  
Los Angeles, CA 90012

21 ERIKA N. GIRARDI, an individual; EJ  
22 GLOBAL, LLC, a limited liability  
company; and PRETTY MESS, INC., a  
corporation.

Judge: Hon. Anne Hwang  
Complaint filed: 7/14/21  
First Amended Complaint filed: 8/26/21  
Answer to FAC filed: 11/11/21

Defendants.

**Order Granting Transfer of Case to  
District Court for Trial and All Further  
Proceedings: 01/28/2025**

27 In response to the Court's *Order Re: June 4, 2025 Status Conference* dated  
28 April 8, 2025 (the "**Status Conference Order**"), plaintiff Elissa D. Miller, chapter 7

1 trustee of bankruptcy debtor Girardi Keesee (“**Plaintiff**”) and defendants Erika N.  
 2 Girardi (“**Erika**”), EJ Global, LLC (“**EJ Global**”) and Pretty Mess, Inc. (“**PMI**,”  
 3 and collectively with Erika and EJ Global, “**Defendants**”), by and through their  
 4 attorneys of record, hereby provide this *Joint Status Conference and Rule 26(f)*  
 5 *Report* (the “**Joint Report**”). Plaintiff and Defendants are hereinafter referred to  
 6 collectively as the “**Parties**.<sup>1</sup>”

7 **I. RESPONSES OF THE PARTIES TO THE COURT’S QUESTIONS IN**  
 8 **THE STATUS CONFERENCE ORDER**

9 The Parties provide the following responses to the Court’s questions, which  
 10 are repeated in bold italicized text below:

11 ***1. Which causes of action alleged in the First Amended Complaint allow***  
 12 ***for a jury trial?***

13 The Parties previously stipulated, in their joint pre-trial stipulation filed  
 14 before the Bankruptcy Court on January 14, 2025, that:

15 (1) based upon the operative pleadings of the Parties – Plaintiff’s *First*  
 16 *Amended Complaint* filed on August 26, 2021 (the “**FAC**”) and Defendants’ *Answer*  
 17 *to FAC and Demand for Jury Trial* filed on November 11, 2021 (the “**Answer and**  
 18 **Jury Trial Demand**”) – Defendants had timely demanded a jury trial in this Court,  
 19 the District Court<sup>1</sup>; and

20 (2) “based on the FAC and the AFAC [the Answer and Jury Trial Demand],  
 21 the Parties agree that, as a matter of law, withdrawal of the reference of this  
 22 adversary proceeding is required and appropriate at this time.” *See* Joint Pre-Trial  
 23 Stipulation [docket no. 147 in Bankruptcy Court adversary proceeding] at page 2,  
 24 lines 5-13.

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 26  
 27 <sup>1</sup> Plaintiff’s FAC is docket entry 12, and Defendants’ Answer and Jury Trial  
 28 Demand is docket entry 20, in the Bankruptcy Court adversary proceeding Pacer  
 file.

1        In response to the Court's specific question, the FAC contains the following  
2 causes of action: (1) Declaratory Relief; (2) Turnover of Property of the Estate (11  
3 U.S.C. § 542); (3) Avoidance and Recovery of Fraudulent Transfers;  
4 (4) Conversion; (5) Constructive Trust; (6) Account Stated; (7) Open Book; (8)  
5 Money Had and Received; (9) Unjust Enrichment; and (10) Accounting.

6        Defendants anticipate that as required by Local Rule 16 of this Court, in  
7 further meeting and conferring between counsel prior to the final pre-trial  
8 conference in this action, Plaintiff will clarify:

- 9              (a) on which of the above causes of action Plaintiff is proceeding at trial;
- 10             (b) of the three categories of transactions defined in the FAC – namely,  
11             “Lottery Payments” and “Luxury Items” (collectively the “Transfers”) and the  
12             “Receivables” – which transactions will be the subject of relief sought by  
13             Plaintiff at trial; and
- 14             (c) as to the causes of action and transactions on which Plaintiff intends to  
15             proceed at trial, what relief, if any, is Plaintiff seeking other than a money  
16             judgment against Defendants?

17        Reserving all rights to expand on this response between now and the final pre-  
18 trial conference, as elaborated below, Plaintiff advises the Court that the gravamen  
19 of the FAC and the claims on which Plaintiff intends to proceed to trial are based  
20 upon the “Receivables” transactions as defined in the FAC, pursuant to which  
21 Plaintiff seeks a money judgment against Defendants due to a debt of in excess of  
22 \$25 million that Plaintiff alleges is owed by EJ Global to Girardi Keese (“GK”), for  
23 which Plaintiff alleges Erika and PMI are liable under alter-ego theories.

24        The Parties agree that regardless of the cause of action, Plaintiff's request for  
25 a money judgment based upon the “Receivables” transactions is a legal claim on  
26 which Defendants are generally entitled to a jury trial. *See* Rutter Federal Practice  
27 Treatise at 16-3, ¶ 16:11 (“Generally, where plaintiff seeks money damages, there is  
28 a right to jury trial. On the other hand, where plaintiff seeks equitable relief (e.g.,

1 injunction), a jury trial is not required.”).

2       The Parties, however, acknowledge that a division of authority exists as to  
 3 whether alter-ego theories of liability are legal or equitable in nature and may be  
 4 tried before a jury. *Id.* at 16-7, ¶ 16:12.4o (“Courts are split on whether the issue of  
 5 piercing the corporate veil on an alter ego theory is to be determined by the court or  
 6 jury.”). Defendants further submit that even on equitable claims, issues may be  
 7 submitted to the jury for certain factual findings.

8       Accordingly, the Parties reserve all rights and ask the Court not to make any  
 9 determination until the final pre-trial conference regarding whether the claims going  
 10 to trial related to the Receivables transactions or otherwise may or must be  
 11 adjudicated by the Court and/or a jury.

12       Finally, understanding that at this time Plaintiff’s principal theory of the case  
 13 as described in this Joint Report relates to the Receivables transactions, the Parties  
 14 provide the following response regarding whether a jury trial is allowed on each of  
 15 the causes of action in the FAC:

16       **(1) Declaratory Relief.** “Declaratory relief may be legal or equitable in  
 17 nature depending on the basic nature of the underlying issues.” Rutter Group  
 18 Federal Practice Treatise at 16-4, ¶ 16:12.4. Defendants note that in the FAC, the  
 19 declaratory relief cause of action is limited to the so-called “Lottery Payments” and  
 20 “Luxury Items” transactions as to which Plaintiff has reserved rights between now  
 21 and the final pre-trial conference. *See* FAC at ¶¶ 30-31. Plaintiff has advised  
 22 Defendant that Plaintiff is pursuing the declaratory relief cause of action on the  
 23 “Luxury Items”; but that Plaintiff is not pursuing declaratory relief as to the “Lottery  
 24 Payments.”

25       **(2) Turnover of Property of the Estate (11 U.S.C. § 542).** The Parties do  
 26 not agree on whether these claims are legal or equitable in nature, and reserve their  
 27 positions between now and the final pre-trial conference.

28       **(3) Avoidance and Recovery of Fraudulent Transfers.** The Parties agree

1 that fraudulent conveyance claims are legal in nature. Plaintiff reserves all rights  
 2 between now and the final pre-trial conference to assert that these claims may be  
 3 tried before the Court.

4       **(4) Conversion.** The Parties agree that a conversion cause of action is legal  
 5 in nature and may be tried before a jury.

6       **(5) Constructive Trust.** Plaintiff contends that this cause of action is  
 7 equitable in nature. Defendant contends that constructive trust is not a cause of  
 8 action, but a remedy. The Parties reserve their positions between now and the final  
 9 pre-trial conference.

10      **(6) Account Stated.** The Parties agree that this “common count” claim under  
 11 state law is legal in nature and may be tried before a jury.

12      **(7) Open Book.** The Parties agree that this “common count” claim under  
 13 state law is legal in nature and may be tried before a jury.

14      **(8) Money Had and Received.** The Parties agree that this “common count”  
 15 claim under state law is legal in nature and may be tried before a jury.

16      **(9) Unjust Enrichment.** “The traditional remedy for unjust enrichment is  
 17 restitution, which may be either a legal or equitable remedy depending on the basis  
 18 of plaintiff’s claim and the nature of the relief sought.” Rutter Federal Practice  
 19 Treatise at 16-4, ¶ 16:12.2. The Parties reserve all rights regarding the unjust  
 20 enrichment cause of action.

21      **(10) Accounting.** “An accounting is usually an equitable action and hence  
 22 not jury triable. However, right to a jury may exist in certain circumstances – ‘i.e.,  
 23 where the accounting . . . is in essence a claim for repayment of a debt.’” Rutter  
 24 Group Federal Practice Treatise at 16-5, ¶ 16:12.4a [internal citations omitted]. The  
 25 Parties reserve their positions between now and the final pre-trial conference.

26      ***2. Why should the non-jury trial claims not be referred back to the***  
 27 ***Bankruptcy Court?***

28      The Parties strongly agree that any splitting up of the claims in the FAC

between this Court and the Bankruptcy Court would be inefficient, impose undue burden on the Parties, likely lead to duplication of effort and additional burden on the federal courts as a whole, potentially lead to inconsistent adjudications, and would not be in the interest of justice. The Parties request that regardless of the division, if any, between jury and non-jury claims, the adjudication of the FAC take place before one tribunal, this Court.

7       3. Are there any potential disputes or issues regarding waiver of the right to  
8 jury trial, particularly in light of the procedural posture and pendency of this  
9 adversary proceeding?

10 The Parties agree that the answer to this question is “no.” Defendants  
11 requested a jury trial in their Answer and Jury Demand in response to the FAC. No  
12 response (which would have included a jury demand) was required to Plaintiff’s  
13 original Complaint because Plaintiff unilaterally amended the original Complaint to  
14 file the FAC before a response was due to the original Complaint.

## **II. JOINT RULE 26(f) REPORT OF THE PARTIES**

## A. Preliminary Statement/Background

This is an action brought by Plaintiff in her capacity as the trustee (the “**Trustee**”) of the bankruptcy estate of Girardi Keese (“**GK**” or “**Debtor**”), a law firm which was managed and operated by Thomas V. Girardi (“**Mr. Girardi**”) against his estranged spouse, Erika Girardi,<sup>2</sup> and two business entities, EJ Global and PMI that are solely owned by Erika. By this action, the Trustee seeks to recover over \$25 million paid by the Debtor between 2007 and 2020 for expenses of EJ Global and Erika’s charges against her personal American Express credit card. All the payments at issue were accounted for on the Debtor’s books and records as an

<sup>27</sup> It is undisputed that on November 3, 2020, Erika filed an action for divorce,  
<sup>28</sup> separated from Mr. Girardi and has been separated from him since that time.

1 inter-company debt “due from” EJ Global, which the Trustee alleges is Erika’s alter  
 2 ego.

3           **B. Issues To Be Tried**

4           The issues to be tried are framed by the Trustee’s FAC and Defendants’  
 5 Answer and Jury Demand, which are docket nos. 12 and 20, respectively, in the  
 6 Bankruptcy Court adversary proceeding Pacer file.

7           **1. Plaintiff’s Position:**

8           Erika, individually, used an American Express card that was issued under Mr.  
 9 Girardi’s personal American Express credit card account to pay for the expenses she  
 10 incurred in pursuit for her entertainment career. In addition, the Debtor paid all of  
 11 Defendants’ billings/invoices incurred by Defendants for services obtained or  
 12 products purchased by Erika in the pursuit of her entertainer/actor/singer/writer  
 13 career. The American Express charges and invoices incurred by Erika were paid for  
 14 by the Debtor and were recorded on the Debtor’s books and records as advances  
 15 (loans). The amount advanced is \$25,592,26.26, not including interest. The Trustee  
 16 further contends that the two corporate defendants were and are mere shells and the  
 17 alter-ego of Erika, and therefore Erika is personally obligated for all obligations  
 18 owed by the two corporate defendants to the Debtor. The Trustee also contends that  
 19 Erika knowingly and willingly participated in Mr. Girardi’s criminal enterprise and  
 20 the money used to pay her business expenses were monies from that criminal  
 21 enterprise. Finally, the Trustee contends that the Bankruptcy Court’s findings of  
 22 fact and conclusions of law approving the Trustee’s Turnover Motion in the  
 23 Bankruptcy Court [Dkt. 28 in Bankruptcy Court adversary proceeding], as reflected  
 24 in the Bankruptcy Court’s Order [Dkt. 137 in Bankruptcy Court adversary  
 25 proceeding], is *res judicata*/law of the case.

26           **2. Defendants’ Position:**

27           Defendants contend that the Debtor’s above-referenced payments at issue, by  
 28 express design of GK, were booked and accounted for solely as an alleged debt of

1 EJ Global to GK, not an individual liability or debt of Erika to GK. GK was  
2 comprised of attorneys who fully understood the difference between a debt owing  
3 by a limited liability company, as opposed to an individual debt owed by an interest  
4 holder in a limited liability company, such as Erika. No promissory note exists to  
5 memorialize the alleged debt owing to GK by EJ Global, and GK was fully capable  
6 of preparing such a written memorialization of EJ Global's alleged debt obligation  
7 but never did so. Further, no promissory note, writing, or other evidence exists that  
8 Erika at any time agreed to undertake any personal liability or debt to GK, based  
9 upon the transactions that gave rise to the alleged receivable booked by GK as  
10 owing to it by **only** EJ Global. Accordingly, Erika has no individual liability and no  
11 evidence exists that she ever undertook or agreed to such an individual liability.  
12 Rather, the only evidence is that sophisticated attorneys of GK structured, accounted  
13 for, and characterized the alleged debt at issue as one owing only by a limited  
14 liability company, EJ Global.

15 The Trustee's above-referenced accusations that Erika knowingly and  
16 willingly participated in a criminal enterprise are false, not supported by any  
17 evidence whatsoever, malicious, and should be stricken. Not even the federal  
18 prosecutors in Mr. Girardi's recent criminal trial (where neither side called Erika as  
19 a witness) alleged that Erika did anything wrong at any time, including in  
20 connection with GK's payments of EJ Global's expenses. This payment structure  
21 was put in place solely by Mr. Girardi, GK, and outside accountants retained by  
22 them. Erika never agreed to take on the massive individual debt that the Trustee,  
23 standing in GK's shores, seeks to impose upon Erika, to which she never agreed and  
24 which GK never sought to impose upon her. Erika's only mistake was trusting her  
25 then-husband, an ostensibly successful and sophisticated attorney. Disturbingly, the  
26 Trustee's accusations are nowhere to be found in the Trustee's operative pleading,  
27 the FAC; and the Trustee and her counsel are fully aware that the allegations are  
28 wholly irrelevant to any claim or defense in this adversary proceeding. Nonetheless,

1 and despite the demand by counsel for Erika that the above specious allegations be  
2 removed, the Trustee and her counsel have insisted on including in this Joint Report  
3 defamatory statements with no basis in fact. Erika can only deduce that the Trustee  
4 is retaliating against her for having questioned and challenged prior actions of the  
5 Trustee in the bankruptcy case.

6       **C. Areas of Discovery**

7           All non-expert discovery has been completed. As noted below, the Parties  
8 have agreed to designate expert witnesses 60 days prior to the trial date set by the  
9 District Court and to complete expert discovery within 20 days of trial.

10       **D. Trial Estimate**

11           Plaintiff has agreed that Defendants are entitled to a jury trial in this Court,  
12 but Plaintiff does not request a jury trial. Assuming a jury trial, Plaintiff estimates a  
13 5 day jury trial. Defendants have demanded a jury trial in this Court. Defendants  
14 estimate a 10-day jury trial.

15       **E. Expert Witnesses**

16           The Parties agree to designate expert witnesses 60 days prior to trial and to  
17 complete discovery within 20 days of trial.

18       **F. Settlement Discussions.**

19           The Parties previously participated in settlement discussions between counsel  
20 but no agreement was reached. For confidential reasons, at this time, Defendants do  
21 not believe that assignment to a mediator would be productive.

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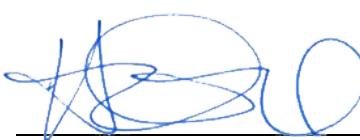
27       ///

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1 DATED: May 14, 2025

JENKINS MULLIGAN & GABRIEL LLC

2  
3 By:  
4



Larry W. Gabriel  
Special Litigation Counsel for Plaintiff  
Elissa D. Miller, Chapter 7 Trustee, Estate  
of Girardi Keese

5  
6  
7 DATED: May 14, 2025

GREENBERG GROSS LLP

8  
9 By:  
10



Evan C. Borges  
Attorneys for Defendants Erika Girardi, EJ  
Global, LLC, and Pretty Mess, Inc.

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## **PROOF OF SERVICE**

Miller v. Girardi  
C.D. Cal. Case No. 2:25-cv-01038-AH

**STATE OF CALIFORNIA, COUNTY OF ORANGE**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 650 Town Center Drive, Suite 1700, Costa Mesa, CA 92626.

On May 14, 2025, I served true copies of the following document(s) described as **JOINT STATUS CONFERENCE AND RULE 26(F) REPORT** on the interested parties in this action as follows:

8 Larry W. Gabriel  
9 JENKINS MULLIGAN & GABRIEL LLP  
10 585 Lorna Lane  
11 Los Angeles, CA 90049  
Tel: (818) 943-8992  
Email: *lgabrielaw@outlook.com*

12 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed  
the document(s) with the Clerk of the Court by using the CM/ECF system.  
13 Participants in the case who are registered CM/ECF users will be served by the  
CM/ECF system. Participants in the case who are not registered CM/ECF users will  
14 be served by mail or by other means permitted by the court rules.

15 I declare under penalty of perjury under the laws of the United States of  
16 America that the foregoing is true and correct and that I am employed in the office  
of a member of the bar of this Court at whose direction the service was made.

17 Executed on May 14, 2025, at Costa Mesa, California.

Cheryl Winsten  
Cheryl Winsten